

EDMUND G. BROWN JR., Attorney General  
of the State of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General  
SUSAN MELTON WILSON, State Bar No. 106902  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-4942  
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. *2009-133*

HAZEL BERNICE LAZARUS  
2344 Brower Street  
Simi Valley, Ca 93065

**A C C U S A T I O N**

Registered Nurse License No. 556988,

Respondent.

Complainant alleges:

**PARTIES**

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about July 16, 1999, the Board of Registered Nursing issued Registered Nurse License No. 556988 to HAZEL BERNICE LAZARUS (Respondent). The registered nurse license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2009, unless renewed.

///

///

**JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 2750 states, in pertinent part:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [article 3, commencing with section 2750]. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in the practice regulated by this chapter [chapter 6, commencing with section 2700]."

5. Code section 118, subdivision (b), states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

6. Code section 2764 states:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary suspension of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

///

///

///

///

///

1                   7.       Code section 2761 states, in pertinent part:

2                   "The board may take disciplinary action against a certified or licensed nurse or  
3 deny an application for a certificate or license for any of the following:

4                   "(a) Unprofessional conduct . . .

5                   "(d) Violating or attempting to violate, directly or indirectly, . . . any provision or  
6 term of this chapter or regulations adopted pursuant to it.

7                   . . .

8                   "(f) Conviction of a felony or of any offense substantially related to the  
9 qualifications, functions, and duties of a registered nurse, in which event the record of the  
10 conviction shall be conclusive evidence thereof."

11                  8.       Code section 2762 states, in pertinent part:

12                  "In addition to other acts constituting unprofessional conduct within the meaning  
13 of this chapter [chapter 6, commencing with section 2700], it is unprofessional conduct for a  
14 person licensed under this chapter to do any of the following:

15                  . . .

16                  "(b) Use any controlled substance as defined in Division 10 (commencing with  
17 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as  
18 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or  
19 injurious to himself or herself, any other person, or the public or to the extent that such use  
20 impairs his or her ability to conduct with safety to the public the practice authorized by his or her  
21 license."

22                  "(c) Be convicted of a criminal offense involving the prescription, consumption,  
23 or self-administration of any of the substances described in subdivisions (a) and (b) of this  
24 section, or the possession of, or falsification of a record pertaining to, the substances described in  
25 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
26 thereof."

27                  ///

28                  ///

1                   9.       Code section 2765 states:

2                   “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
3 made to a charge substantially related to the qualifications, functions and duties of a registered  
4 nurse is deemed to be a conviction within the meaning of this article. The board may order the  
5 license or certificate suspended or revoked, or may decline to issue a license or certificate, when  
6 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or  
7 when an order granting probation is made suspending the imposition of sentence, irrespective of  
8 a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such  
9 person to withdraw his or her plea or guilty and to enter a plea of not guilty, or setting aside the  
10 verdict of guilty, or dismissing the accusation, information or indictment.”

11                   10.      Code section 490 states:

12                   “A board may suspend or revoke a license on the ground that the licensee has been  
13 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
14 of the business or profession for which the license was issued. A conviction within the meaning  
15 of this section means a plea or verdict of guilty or a conviction following a plea of nolo.  
16 contendere. Any action which a board is permitted to take following the establishment of a  
17 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has  
18 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
19 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
20 Penal Code.” (Emphasis added.)

21                   11.      Code section 492 states:

22                   “Notwithstanding any other provision of law, successful completion of any  
23 diversion program under the Penal Code, or successful completion of an alcohol and drug  
24 problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12  
25 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
26 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in  
27 that division, from taking disciplinary action against a licensee or from denying a license for

28    ///

1 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
2 record pertaining to an arrest.”

3 “This section shall be construed to apply to any drug diversion program operated  
4 by any agency established under Division 2 (commencing with Section 500) of this code, or any  
5 initiative act referred to in that division.”

6 12. California Code of Regulations, title 16, section 1444, states, in pertinent  
7 part:

8 “A conviction or act shall be considered to be substantially related to the  
9 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
10 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
11 public health, safety, or welfare.”

12 13. Code section 125.3, subdivision (a), states, in pertinent part:

13 "Except as otherwise provided by law, in any order issued in resolution of a  
14 disciplinary proceeding before any board within the department . . . the board may request the  
15 administrative law judge to direct a licensee found to have committed a violation or violations  
16 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case."

### 18 19 **FIRST CAUSE FOR DISCIPLINE**

#### 20 **(Conviction of a Substantially Related Crime)**

21 14. Respondent is subject to disciplinary action under sections 490, 2762(b),  
22 2762 (c) and 2761(f) of the Code, and California Code of Regulations, title 16, section 1444, in  
23 that Respondent has pled guilty to a crime substantially related to the qualifications, functions, or  
24 duties of a registered nurse, as follows:

25 (a) On or about March 14, 2008, pursuant to a plea agreement, Respondent  
26 pled nolo contendere to one count of violating Vehicle Code section 23153(driving with blood  
27 alcohol level of 0.08% or more), a misdemeanor, and admitted two special allegations pursuant  
28 to Vehicle Code section 23578 (Driving with a blood alcohol level of .15 or more) and Vehicle

1 Code section 23572 (Minor passenger<sup>1</sup> in vehicle) in the Superior Court of California, County of  
2 Ventura, VCIJIS Case No. 2007039016, entitled *The People of the State of California v. Hazel*  
3 *Bernice Lazarus (05-18-1969)*. Entry of judgment was deferred for 18 months.

4 (b) *The circumstances surrounding the conviction* are that on or about  
5 October 12, 2007 at approximately 2137 hours, Simi Valley Police Department officers arriving  
6 after a traffic collision, found Respondent sitting in her stopped vehicle. They observed that she  
7 had a stuporous demeanor, and a strong odor of alcohol from her exhaled breath. Respondent,  
8 who had a minor child in the vehicle, was described by the officers as “uncooperative” and  
9 “unable to talk about the collision.” Witness reports indicated that Respondent lost control of her  
10 vehicle while attempting a right turn. Respondent apparently entered the intersection where the  
11 collision occurred without stopping or slowing, then began her turn too late - causing the vehicle  
12 to drive up onto and over the raised median in the center of the street, and to strike a vehicle on  
13 the other side of the median.

## 14 **SECOND CAUSE FOR DISCIPLINE**

### 15 **(Use of Alcohol to the Extent Than Use Impairs Safety)**

16 15. Respondent’s license is subject to disciplinary action under Business and  
17 Professions Code section 2762, subdivision (b), on the grounds of unprofessional conduct, in that  
18 Respondent used alcohol to an extent or in a manner dangerous or injurious to herself or other  
19 persons or the public on or about October 12, 2007, in that Respondent caused a traffic collision  
20 by driving a motor vehicle while intoxicated, and otherwise engaged in criminal misconduct for  
21 which she was convicted on March 14, 2008, by driving with a blood alcohol level of .15 % or  
22 more while a minor child was a passenger in the vehicle, as described in paragraph 14 above.

## 23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
25 alleged, and that following the hearing, the Board issue a decision:

- 26 1. Revoking or suspending Registered Nurse License No. 556988, issued to  
27 \_\_\_\_\_

28 1. A ‘minor’ is defined in the statute as a passenger under the age of 14 years.

1 HAZEL BERNICE LAZARUS;

2 2. Ordering HAZEL BERNICE LAZARUS, to pay the Board the reasonable  
3 costs of the investigation and enforcement of this case, pursuant to Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5

6 DATED: 12/08/08

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

LA2008601168

50292413.wpd

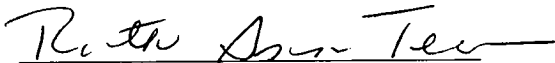
24

25

26

27

28

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant